UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1992/S-2/SR.1
7 December 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Second special session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 30 November 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

CONTENTS

Opening of the session

Adoption of the agenda

Organization of work

Letter dated 16 November 1992 from the Ambassador of the Republic of Turkey to the Republic of Hungary addressed to the Chairman of the Commission on Human Rights and letter dated 18 November 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the United States of America to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.92-14772 (E)

The meeting was called to order at 10.50 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the second special session of the Commission on Human Rights. The Commission was meeting for the second time in exceptional circumstances to consider a particularly serious matter. It should therefore make the best possible use of the short time available.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (E/CN.4/1992/S-2/1)

2. The agenda was adopted.

ORGANIZATION OF WORK (agenda item 2)

3. The CHAIRMAN outlined the procedure to be followed for the general debate, rights of reply, consideration of proposals and voting. He suggested that the requirement for a 24-hour period between the circulation of the texts of proposals and amendments and the vote thereon as provided for in rule 52 of the Commission's rules of procedure, should be waived.

4. It was so decided.

LETTER DATED 16 NOVEMBER 1992 FROM THE AMBASSADOR OF THE REPUBLIC OF TURKEY TO THE REPUBLIC OF HUNGARY ADDRESSED TO THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS AND LETTER DATED 18 NOVEMBER 1992 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS (agenda item 3) (E/CN.4/1992/S-2/2, E/CN.4/1992/S-2/3)

5. Mr. MORLAND (United Kingdom) said that the European Community and its member States, on whose behalf he was speaking, had on numerous occasions reiterated that they did not accept that the Federal Republic of Yugoslavia as the automatic continuation of the former Socialist Federal Republic of Yugoslavia. In that connection he referred to General Assembly resolution 47/1 and to the United Nations Legal Counsel's opinion on the applicability of that resolution to other United Nations bodies. The European Community and its member States regarded General Assembly resolution 47/1 as a model for action in the specialized agencies and other United Nations bodies in due course as appropriate. They did not consider the representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) to be valid representatives of the former Socialist Federal Republic of Yugoslavia at the current session of the Commission. Accordingly the presence of representatives of the Federal Republic of Yugoslavia at the current meeting of the Commission was without prejudice to any future action that the European Community and its member States might take.

6. Mr. LANG (Austria), Mr. ABRAM (United States of America), Mr. ITO (Japan), Ms. PARK (Canada) and Mr. WALKER (Australia) endorsed the statement by the representative of the European Community.

7. Mr. PAVITEEVIC (Yugoslavia) said that, without wishing to question any delegation's right to express its position, he would like to point out that General Assembly resolution 47/1 related exclusively to the temporary non-participation of the Yugoslav delegation in the work of the forty-seventh session of the United Nations General Assembly and its subsidiary bodies. That was also the interpretation of the United Nations Legal Counsel, who had so informed all United Nations bodies and member States.

8. Mr. AKTAN (Turkey) expressed gratitude to the Chairman and members of the Commission for supporting the call of the United States and Turkey for the convening of the second special session of the Commission. The dangerously worsening crisis in the former Yugoslavia, particularly in Bosnia and Herzegovina, warranted the urgent attention of the international community. It was also appropriate for the Commission to discuss and act upon the reports of Mr. Mazowiecki, the Special Rapporteur it had appointed.

9. His delegation, together with that of the United States, had submitted a draft resolution incorporating many suggestions made by a large number of countries from the Organization of the Islamic Conference (OIC) and the Western and other groups during extensive consultations. Despite some shortcomings, the draft had the merit of faithfully reflecting the situation in Bosnia and Herzegovina, distinguishing between victim and victimizer and defining the nature of the crimes committed there.

10. The sponsors hoped that the draft resolution would be adopted by consensus. They would welcome as many co-sponsors as possible so as to show that religious or regional differences played no part in their attitude towards the tragedy. Although there were differences of approach as to how to deal with the crisis in the politico-military sphere, there should be no divergence in assessments of the human rights and humanitarian aspects of the question, aspects which were essential to the deliberations in the Commission. The draft resolution was strictly confined to the findings contained in the reports of the Special Rapporteur, to whom profound appreciation was due.

11. Like the Special Rapporteur, Turkey believed that the underlying cause of the tragedy in the former Yugoslavia was the ultimate goal of creating a Greater Serbia through the incorporation of "ethnically cleansed" parts of Bosnia and Herzegovina and Croatia. The aggression to that end had been perpetrated by the Yugoslav army in Croatia and, after its ostensible withdrawal, by the relocated Yugoslav forces and their heavy weaponry in Bosnia and Herzegovina. The existence of Serbian irregular and paramilitary forces was being used by the Belgrade regime as an excuse to deny responsibility for atrocities and war crimes which in fact were not only condoned but also commissioned by it. As the Special Rapporteur noted, ethnic cleansing was openly pursued on the territory of those parts of Bosnia and Herzegovina and Croatia which were under Serbian control.

12. Thus the international community was compelled to conclude that the aggressor was Serbia and the self-proclaimed Serbian authorities under the direct influence and control of Serbia. The aggression was directed against two sovereign States Members of the United Nations, and hence against international peace and security. He agreed with the Special Rapporteur that

a factor which had contributed to the intensity of ethnic cleansing in areas under Serbian control was the marked imbalance between the weaponry in the hands of the Serbian and of the Muslim population of Bosnia and Herzegovina.

13. The Muslims in Bosnia and Herzegovina were the principal victims of the aggression, which involved ethnic cleansing and indiscriminate shelling of the civilian population in the besieged cities, towns and villages. The distinction between aggressor and victim should not be blurred by claims that human rights violations were perpetrated by all parties to the conflict. The unjustified violence that had been unleashed by Serbia had inevitably provoked a defensive reaction on the part of Bosnia and Herzegovina. It was a fact that when there was unjust violence of such magnitude and nature, violations were unavoidable. However, as the Special Rapporteur had clearly stated, in the areas under the Government's control, violations associated with ethnic cleansing were not committed in a systematic fashion and did not appear to form part of a deliberate campaign to cleanse those areas of the Serbian population. To be just, fair and balanced, any judgement by the international community should take that difference into account.

14. Ethnic cleansing was defined in Commission resolution 1992/S-1/1 as entailing at the minimum deportations and forcible mass removal or expulsion of persons or destruction of national, ethnic, racial or religious groups. The Special Rapporteur defined it as the elimination by the ethnic group exercising control over a given territory of members of other ethnic groups (A/47/666-S/24809, para. 9). The inhuman practices employed in Serbian controlled areas as a means of achieving ethnic cleansing included threats, harassment and intimidation; shooting or using explosives against homes, shops and places of business; destruction of places of worship and cultural institutions; transfer or relocation of populations by force; summary executions; and commission of atrocities calculated to instil terror among the population, such as torture, rape, the mutilation of corpses and the shelling of civilian population centres.

15. Taken separately, those elements of ethnic cleansing could be considered as violations of the individual provisions of international human rights law and humanitarian law. However, considering their magnitude in terms of massive and grave violations as well as their cumulative and simultaneous effect on the target group, ethnic cleansing of such proportions amounted to a crime against humanity.

16. To date, 10 per cent of roughly 2.5 million Bosnian Muslims had either been killed or wounded. Half had been displaced or made refugees. Half a million were suffering indiscriminate shelling in besieged cities, towns and villages. According to the estimates of the Office of the United Nations High Commissioner for Refugees (UNHCR), 400,000 would perish in the winter cold unless urgent and adequate assistance was provided. No one could claim that the remaining fifth of the population was unaffected. The Convention on the Prevention and Punishment of the Crime of Genocide provided that killing members of a group with intent to destroy it in whole or in part was sufficient to fulfil the conditions of that crime. The Special Rapporteur in turn solemnly warned the international community that ethnic cleansing might be imminent in certain parts of Serbia and Montenegro where there were large

communities of persons not of Serbian origin, such as Kosovo, Sandzak and Vojvodina, and that the Muslim population, together with its cultural and spiritual heritage, was virtually threatened with extermination in Bosnia and Herzegovina.

17. The question arose whether the final solution of the ethnic cleansing policy should be awaited before it was declared as genocide. That question was being put to States by the draft resolution. The continuation of that policy presumed the inability and unwillingness of the international community to enforce compliance, for thanks to the Special Rapporteur's reports, it could no longer claim innocence. Time was short. The coming winter would further inflict on the Muslim population conditions of life calculated to bring about its physical destruction in whole or in part by the aggressor, as provided in article II (c) of the Genocide Convention.

18. The disaster that had reached apocalyptic proportions in Bosnia and Herzegovina was a crucial test for the present generation. It must not let history repeat itself. Inside the former Yugoslavia the question was whether the Muslim population would survive. Outside the country, however, the question was whether the world in the aftermath of that tragedy would be worth living in.

19. Mr. ABRAM (United States of America) said that his country had fully supported and joined in Turkey's call for the convening of a second special session of the Commission.

20. The despicable horrors inflicted indiscriminately in the former Yugoslavia were detailed in the reports of the Special Rapporteur and the reports submitted to the Security Council by the United States and other countries and disseminated by the media. Thus the world could not claim ignorance. The question the Commission must address was what should be done to stop that barbaric conduct in the heart of Europe, and the sponsors of the draft resolution before the Commission had struggled to do just that.

21. The goal was to apportion blame and to mobilize action. If the opportunity provided by the nearly unanimous support for the special session was seized, the Commission could make history.

22. Geneva was the proper place for that to happen. It was only a few hundred kilometres from the former Yugoslavia, from which refugees flooded into Switzerland and neighbouring countries. Geneva was the centre of the United Nations' fight for human rights and fundamental freedoms, and the headquarters of the Commission on Human Rights and UNHCR. It was the home of the International Committee of the Red Cross (ICRC), the ultimate interpreter of the Geneva Conventions, which named and defined the many savage crimes being committed in the former Yugoslavia. It was the location of the commission on war crimes in the former Yugoslavia, which he hoped would accomplish what Nürnberg had failed to achieve, namely a deterrent effect on those who committed criminal acts against civilized humanity in the name of States and nationalities. Geneva, a historic city of negotiation and conciliation, was the appropriate place for the holding of the International Conference on the Former Yugoslavia, whose work was complementary to the work

of the Commission on Human Rights. With winter approaching, the time was ripe to convene the special session of the Commission, and the hopes of women, children and other innocents in the former Yugoslavia were depending on it.

23. Since the Commission's first special session in August, the United States, together with other concerned members of the international community, had taken steps to address the continuing horror in the former Yugoslavia. They had called for information on grave breaches of international and humanitarian law to be collected by member States and presented to the Secretary-General and they had created a Commission of Experts to review the information and recommend measures to bring individual perpetrators to justice. The United Nations Security Council had authorized all necessary measures to ensure that humanitarian assistance reached those in need in Bosnia and Herzegovina, calling for the banning of flights of military aircraft over that area and demanding an embargo on trade with Serbia and Montenegro, while allowing for humanitarian goods to be distributed to those in need whatever their ethnic or religious group.

24. The London Conference had brought together representatives of concerned nations and the parties themselves and agreements had been reached to allow humanitarian assistance, place heavy weapons under United Nations supervision, halt military flights and cease the abhorrent practice of ethnic cleansing. Yet in utter disregard for common humanity, each of those agreements had been breached. All parties should ask themselves whether any political goal was worth the suffering caused to the people of the former Yugoslavia.

25. The United States had provided three reports to the Secretary-General as requested by Security Council resolution 771 (1992), and a fourth report was being prepared. The reports contained eyewitness accounts and allegations of grave human rights abuses. It was clear from the large body of information available that the overwhelming responsibility lay with the Serbs. Winter was fast approaching and severe weather would vastly complicate efforts to provide food and vital assistance to the needy and threaten their very survival. Those who stood in the way of the effort to help the living must understand that their actions were wholly unacceptable in the eyes of the international community.

26. While the first consideration must be to help the living, justice must be exacted for the dead. Military commanders who shelled targets with no military value simply to kill and terrorize must realize that they would be held accountable under the Geneva Conventions. Those who had operated detention camps and abused inmates were likewise accountable under international conventions. Mr. Mazowiecki and others had reported on the evidence of mass graves and other signs of grave breaches of international humanitarian law. That evidence should be examined by forensic experts under the auspices of the United Nations commission on war crimes in the former Yugoslavia. Because of its strong commitment to seeing justice done on behalf of the victims of Yugoslavia's tragedy, the United States would contribute $500,000 to the efforts of the Special Rapporteur for the purpose of increasing his field staff.

27. The draft resolution before the Commission condemned the ongoing violations of human rights in the former Yugoslavia. It placed primary blame for the despicable practice of ethnic cleansing on the Serbian leadership and called on all parties to use whatever influence they had to put an end to it and to reverse its effects by allowing refugees to return to their homes. It recommended that all States should consider the extent to which those and other practices constituted genocide under the United Nations Convention on the Prevention and Punishment of the Crime of Genocide and encouraged full cooperation between the Special Rapporteur and the commission on war crimes in the former Yugoslavia.

28. Common humanity was diminished by every single act of cruelty and terror. When the most fundamental principles of the United Nations were being challenged, the international community must not shirk its obligations by failing to take action on the situation in the former Yugoslavia.

29. The CHAIRMAN read out a message from Mr. Vance and Mr. Owen, the Co-Chairmen of the International Conference on the Former Yugoslavia, who were unfortunately unable to attend the Commission's special session because of other commitments. They categorically condemned the violations of international norms on human rights and humanitarian law and the disgraceful practice of ethnic cleansing. They said that, in their efforts to promote peace with justice in the area of the former Yugoslavia, they had placed emphasis on the provision of humanitarian assistance, the strict application of sanctions, helping to bring about a cessation of hostilities in Bosnia and Herzegovina and the preparation of a constitution for Bosnia and Herzegovina. They had also sought to promote preventive measures to avoid the spread of the conflict. They urged the international community to do everything possible to support and strengthen the endeavours being undertaken in accordance with the decisions of the Security Council. They hoped that the session would help put an end to the violations of human rights and humanitarian law in the area of the former Yugoslavia and also that attention would be given to the question of protecting the rights of minorities, an issue of great importance to future stability and security in that area.

30. Mr. MORLAND (United Kingdom), speaking on behalf of the European Community and its member States, said that the overwhelming evidence of massive human rights violations, in particular in Bosnia and Herzegovina, had fully justified the holding of a second special session of the Commission on Human Rights pursuant to Economic and Social Council resolution 1990/48.

31. At its first special session, in resolution 1992/S-1/1, the Commission had mandated its Chairman to appoint a Special Rapporteur to investigate at first hand the human rights situation in the former Yugoslavia and to report urgently to the members of the Commission on his findings. Mr. Mazowiecki's reports of August and October (E/CN.4/1992/S-1/9 and 10) had catalogued grave and massive violations of human rights and international humanitarian law and growing evidence that war crimes had been committed. The violations included killings, rapes, beatings, destruction of houses, use of threats, illegal detentions, mistreatment in detention camps and forced expulsions, as part of the policy of ethnic cleansing carried out principally by Serbian groups. On both occasions the Special Rapporteur had concluded that the main victims were the members of the Muslim population. While the

most serious breaches had taken place in Bosnia and Herzegovina, the human rights situation in other parts of the former Yugoslavia, particularly Kosovo, Vojvodina and Sandzak, were also a cause for grave concern.

32. The European Community and its member States condemned all the violations of human rights revealed in the Special Rapporteur's reports. They must cease and it would be the task of all to ensure that the perpetrators were held personally accountable and brought to justice. The European Community and its member States welcomed the intention of the Special Rapporteur to provide the Commission of Experts established pursuant to Security Council resolution 780 (1992) to examine and analyse information relating to violations of international humanitarian law being committed in the territory of the former Yugoslavia with all pertinent information. They also stressed that the international community must not acquiesce in the results of the abhorrent practice of ethnic cleansing; the right of all refugees and displaced persons to return to their own homes must be reaffirmed.

33. As the Special Rapporteur had concluded in his report to the General Assembly (A/47/666-S/24809), the conflict in Bosnia and Herzegovina was not religious but was fomented by extremist groups and parties to further their own political and material interests. The ideologies underlying the conflict must be counteracted by the active promotion of human rights. All parties must accept responsibility for ensuring the protection offered to individuals under their control by the fundamental norms of international human rights law, including those contained in the Universal Declaration of Human Rights and in the International Covenants on Human Rights. The European Community and its member States also welcomed the proposals of the International Conference on the Former Yugoslavia for a draft constitution for Bosnia and Herzegovina containing, inter alia, human rights guarantees. They renewed their demand that the ICRC and other international observers should be granted immediate and unconditional access to all camps and places of detention in the former Yugoslavia. They called for the immediate and unconditional release, under international supervision, of all persons arbitrarily or illegally detained.

34. The European Community and its member States were at the heart of efforts within the United Nations system and the International Conference on the Former Yugoslavia to tighten the monitoring of human rights violations in that country. They repeated their commitment to cooperate with the United Nations in ensuring that justice was done and condemned all attacks on unarmed civilians and on international personnel. They called on all parties to allow the humanitarian agencies to carry out their vital work and condemned all those who interfered with the delivery of humanitarian assistance.

35. They commended the efforts of the Special Rapporteur to fulfil the Commission's mandate and endorsed all his conclusions and recommendations relating to human rights. They also supported his request for staff based in areas of the former Yugoslavia in order to facilitate more effective monitoring of the human rights situation there.

36. The European Community and its member States would continue to work to match the response of the international community to the severity of the crisis. They welcomed the positive response of States to the appeal by UNHCR

for offers of temporary refuge for former detainees from camps in Bosnia and Herzegovina and commended the continuing work of ICRC in securing the release of such prisoners. They also called on the international community to maintain the utmost vigilance in its efforts to ensure the full restoration of human rights to the population of the former Yugoslavia.

37. Mr. BAUM (Germany) said that, although it was recognized that grave human rights violations had been committed by Croats and Muslims, the findings of the Special Rapporteur clearly demonstrated that it was primarily the Serbian side which was responsible as it continued its war of aggression, ethnic cleansing, intimidation and expulsion in Bosnia and Herzegovina. Mass rape was a particularly horrifying dimension of the war, used systematically to destroy the human dignity of an entire people and as a means of ethnic cleansing. Leading women politicians in Germany had united in a call to the international community to stop such crimes. His Government would welcome a special report on the subject.

38. Germany took a particular interest in the region of the former Yugoslavia, more than 750,000 of whose citizens had been living in Germany for decades, considering it their second home and regarded as respected members of German society. Since the outbreak of war in the former Yugoslavia, more than 250,000 people had sought and found refuge in Germany, or more than two thirds of all refugees from the former Yugoslavia.

39. With the imminence of the cold season, need and distress were growing. Those detained in camps or besieged cities and villages were the centre of concern and he would support the Special Rapporteur's request to close the detention camps and evacuate their inmates. The European and the international community should increase their efforts to accommodate those refugees; Germany itself was willing to receive 1,000 of them immediately.

40. Referring to the situation in his own country, he said that while there were indeed alarming signs of xenophobia and racism, they were limited to a small minority and the German Government would do everything possible to put an end to them.

41. He proposed that the Commission on Human Rights should concentrate on five main points: Firstly, it needed an international register with detailed information on violations of human rights in the former Yugoslavia, identifying the perpetrators by name. Secondly, the German Government would continue to support the establishment of an international criminal court, the first task of which would be to judge those who had committed murder in the war in the former Yugoslavia. All those who had committed violations of human rights would be held responsible individually, as would the commanders and civil authorities who had ordered or failed to prevent those crimes. Thirdly, the emergency mechanism of the Commission needed to be further developed. His delegation would see to it that those three subjects were discussed at the forthcoming World Conference on Human Rights in Vienna. Fourthly, he specified that Germany supported the request of the Special Rapporteur for more staff. Lastly, more coordination and more intensive cooperation was needed between all bodies of the United Nations and other international organizations playing an active human rights role in the territory of the former Yugoslavia.

42. The Special Rapporteur had also drawn the attention of the world community to the explosive situation in Kosovo, Sandzak and Vojvodina. His Government called on Belgrade to re-establish the autonomy of the Province of Kosovo and to seek dialogue with the minorities; the appropriate forum for such a dialogue should be the International Conference on the Former Yugoslavia. His delegation appealed to the Serbian people to stop the criminal elements which made use of the name of Serbia and tarnished its historical reputation.

43 Mr. LANG (Austria), said that his delegation was grateful to the Co-Chairmen of the International Conference on the Former Yugoslavia for their message, which highlighted many of the issues under consideration in Geneva. His delegation fully supported the activities of the Conference and the unrelenting efforts of the Chairmen and working groups. However, the latest figures concerning the increasing degree of senseless violence and human suffering in the former Yugoslavia were a matter for great alarm. The hopes and expectations raised by various international efforts for a peaceful settlement of that conflict had been in vain and what remained was frustration over the continuing refusal of the Serbian leadership to abide by the decisions adopted in London in August. In the meantime, human rights violations had reached intolerable proportions.

44. The Austrian Government had therefore joined in the initiative of the United States and Turkey to convene another special session of the Commission. Although it was firmly convinced that the Commission should meet between its regular sessions when urgent questions arose, the Commission should not be restricted to that option. Austria had submitted a detailed proposal for an emergency mechanism of the Commission at the previous regular session and it was its hope that the experience of dealing with the situation of human rights in the former Yugoslavia would convince all States of the need to refine current procedures.

45. The Special Rapporteur's first report had made his delegation aware of two important facts which had become even more evident in the second and third reports, namely, that the dimensions of the human tragedy surpassed the worst expectations and that the Special Rapporteur's reports highlighted issues which, although beyond the mandate of the Commission, required the urgent attention of the international community, including the establishment of safe areas under military protection in Bosnia and Herzegovina. Other issues were the extension of the mandate of the United Nations Protection Force (UNPROFOR) to cover Bosnia and Herzegovina as well as the immediate opening of relief corridors. Those issues must be addressed as a matter of urgency since winter was setting in and the dangers of hunger and cold compounded the terrible plight of the people of Bosnia and Herzegovina; their survival was paramount.

46. Issues on which the Commission must take action were the prevention of further violations of human rights and the condemnation of violations which had already occurred. The practice of ethnic cleansing terrorized and intimidated the Muslim and Croat population of Bosnia and Herzegovina and must be stopped immediately. Those practices generated further violations of human rights; his delegation shared the Special Rapporteur's opinion that such acts committed in retaliation could in no way be justified. Appealing to all

parties concerned to put an end to ethnic cleansing, his delegation emphasized the right of victims to return to their homes; legal acts performed under duress by persons subjected to such practices must be considered null and void.

47. His Government had repeatedly voiced its dismay over the fact that civilians had been detained in total breach of humanitarian law, while killings and systematic acts of violence were taking place in the detention camps. Austria called for an immediate dismantling of those camps in accordance with the specific decisions of the London Conference. It was of the utmost importance that ICRC should be granted immediate access to all internment camps and that all parties should ensure the safety and freedom of movement of ICRC representatives.

48. His delegation welcomed the recent decision of the Security Council to establish a Commission of Experts to examine and analyse information on violations of humanitarian law. It expected the closest cooperation between the Commission and the Special Rapporteur. All persons who perpetrated or authorized crimes against humanity should be brought to justice according to their individual responsibility for such acts, while alleged war crimes and crimes against humanity committed in the former Yugoslavia could be referred to international ad hoc criminal proceedings.

49. His delegation recommended the continuation of the Special Rapporteur's mandate. For his missions to the former Yugoslavia he should be able to draw on the expertise of other existing human rights mechanisms and have the effective cooperation of all United Nations bodies. His reports should be brought to the attention of the Security Council and the Commission should urge the General Assembly to make available the requested resources for the deployment of staff in the territory of the former Yugoslavia in order to achieve continuous monitoring of the human rights situation there.

50. The utter disregard of human rights and the carnage in the former Yugoslavia demonstrated the extreme fragility of the international system for the protection of human rights. There was a need to foster all mechanisms enabling the international community to react promptly to massive and flagrant violations; however, all decisions and appeals adopted by the Commission would be in vain if they had no impact on those who instigated or carried out the violations.

51. Mr. MAKEYEV (Russian Federation) said that his country was deeply concerned by reports of the deaths of thousands of civilians and of gross and massive violations of human rights and humanitarian law in the territory of the former Yugoslavia, and especially in Bosnia and Herzegovina, as well as by the continuing shameful practice of ethnic cleansing, which regrettably encompassed all the national groups in the population that for decades had lived in peace and good-neighbourliness. It was inadmissible that, for the sake of the ambitious plans of some political leaders, human lives should be sacrificed, the land laid waste and a whole country deprived of its future. There was no sense in trying to solve the crisis through an escalation of violence, on the pretext of exercising the right to self-defence, or in

calling for vengeance and further bloodshed. Equally absurd were schemes to create so-called ethnically pure States to replace the multi-ethnic mosaic that had evolved in the Balkans.

52. Effective long-term solutions to the complex problems of the former Yugoslavia were now being actively sought within the framework of the United Nations, the European Community and the Conference on Security and Cooperation in Europe (CSCE). An enormous burden was being shouldered by UNHCR, the United Nations Children's Fund (UNICEF), ICRC and other humanitarian organizations. The problem of the former Yugoslavia was also being discussed thoroughly in the Security Council and at the current session of the General Assembly. Great efforts were being made, furthermore, at the International Conference on the Former Yugoslavia under the co-chairmanship of Cyrus Vance and Lord Owen. In that framework, important agreements were being reached on military disengagement and a truce on safe delivery of humanitarian assistance, protection for refugees, displaced persons and civilians and the release of prisoners, as well as on the formulation of a new constitutional system for Bosnia and Herzegovina. That process was, of course, moving forward slowly and with difficulty, but everything possible must be done to ensure that it was directed to achieving a political settlement, notwithstanding the differences that existed. With winter approaching, his delegation believed that thought must be given to ways and means of alleviating the plight of the most vulnerable groups of the civilian population - women and children, the elderly and the sick - suffering under the dual burden of military devastation and sanctions. It should be remembered that the sanctions were directed against extremist elements, and not against the people. In that regard, the Russian Federation highly appreciated the efforts of UNHCR and ICRC and fully supported their humanitarian efforts and appeals.

53. The Commission on Human Rights also had a contribution to make to resolving the crisis. In his delegation's view, the effectiveness of the current special session depended on how closely the Commission adhered to its terms of reference, without encroaching upon the mandate of the Security Council or the General Assembly or being drawn into a discussion of aspects of the crisis that came within the competence of the highest political organs of the United Nations. That applied to issues such as the definition of the aggressor, the lifting of the embargo on arms supplies to Bosnia and Herzegovina, the right to self-defence, and so on. Within the framework of the Commission, however, his delegation was ready to consider and actively support any proposals aimed at strengthening international supervision of compliance with the rules of humanitarian law and preventing gross and massive human rights violations in the former Yugoslavia.

54. More and more calls were being made for the use of force in the former Yugoslavia, in particular under Chapter VII of the Charter of the United Nations. Any military intervention, however, would mean turning the Yugoslav tragedy into a bloody nightmare and would cause further immense loss of life. The task of securing respect for human rights in that region would become pointless and attempts to find a just and long-term solution to the problem would lose any chance of success. His delegation believed that the use of force was unacceptable for the international community. The tragedy in the former Yugoslavia and the suffering of its peoples were continuing not

because troops had not been sent there but because a political solution between the parties involved in the conflict had not yet been found. His delegation therefore called on the Commission on Human Rights to appeal to all parties to intensify their efforts within the framework of the Geneva Conference and other international mechanisms to search for a peaceful settlement and, in particular, agree on a new constitutional system for the Republic of Bosnia and Herzegovina.

55. The draft resolution on the situation of human rights in the former Yugoslavia should be prepared with a view to its adoption by consensus, and therefore should be balanced and avoid bias from the outset. The Commission should call for strict observance of human rights by all parties involved in the conflict - and not just by one of them, as called for by some, particularly in the most recent draft of 28 November. The kindling of hatred towards any one nation would not resolve the problem and could only be counter-productive. Furthermore, action by the Commission should be based solely on reliable sources and substantiated facts.

56. It was well known that in case of civil strife, the rules of international humanitarian law were violated throughout the war-affected area. Quite often one side was larger or stronger than the other, but ethnic cleansing was surely no less criminal when practised on a smaller scale. Anyone shown to have committed even a single crime must be tried and punished. His delegation believed that it was completely inadmissible to destroy mosques or Catholic churches, but the same principle should also be applied to Orthodox churches. Everyone must be urged to refrain from the use of force and to comply with the standards and rules of civilized behaviour, existing laws and the Constitution of the country.

57. At the current special session, it was important to strengthen the mandate of the Special Rapporteur, give him greater authority and facilitate access to objective information. His delegation was concerned by the facts provided in Mr. Mazowiecki's reports on gross and massive human rights violations in the territory of the former Yugoslavia, especially in Bosnia and Herzegovina. It resolutely condemned the inhuman practice of ethnic cleansing and other gross human rights violations and believed that anyone guilty of such crimes bore personal responsibility for them. There was also a need to provide refuge in foreign countries for persons fleeing areas of the former Yugoslavia affected by the conflict. All detention camps for civilians must be closed as soon as possible.

58. The various reports on the situation in the former Yugoslavia must contain objective information and avoid unconfirmed facts and biased evaluations or conclusions, since their aim should be to assist the Special Rapporteur and the Commission in obtaining the most objective possible picture of events.

59. His delegation supported the proposal to include in the draft resolution a stipulation to the effect that all parties to the conflict bore responsibility for seeking peaceful solutions through negotiations under international auspices. They should also be urged to cease all violations of humanitarian law and human rights.

60. More effective international monitoring of the observance of humanitarian law and human rights required even closer coordination between the activities of the Special Rapporteur and other international mechanisms, in particular the Geneva Conference, CSCE and the Commission of Experts created by the Security Council to investigate war crimes in the territory of the former Yugoslavia. All those mechanisms should supplement one another and pursue the same objective - careful examination, recording and dissemination of the facts concerning violations of humanitarian law and human rights and also the formulation of recommendations aimed at preventing such unlawful acts and ensuring their punishment. Clearly, that would require daily constructive cooperation between the leadership of the former Yugoslavia and all parties to the conflict with the United Nations and other organizations.

61. His delegation was sure that goodwill, common sense, tolerance, a desire for mutual understanding and a common concern to contribute to improving the situation of the population in Bosnia and Herzegovina and throughout the territory of the former Yugoslavia would permit the adoption of a resolution on the basis of consensus, thereby constituting a further step by the international community towards bringing an end to the fratricidal war as soon as possible, achieving a political settlement and ensuring lasting peace in the Balkans.

62. Mr. BROTODININGRAT (Indonesia) said that his Government was following closely the tragic events in the former Yugoslavia, and especially in Bosnia and Herzegovina, and was appalled by the increasing gravity of the situation. The comprehensive reports of the Special Rapporteur indicated that massive violations of human rights were taking place throughout the territory, the practice of ethnic cleansing was continuing and the destruction of historical landmarks and places of worship had spread even to United Nations-protected areas. Arbitrary executions were also reported, along with terrorist attacks directed primarily against the members of the Muslim community, posing the threat of their virtual disappearance from their homeland. It was especially distressing that those violent acts were being committed with the full knowledge of the Serbian authorities in their de facto controlled areas of Bosnia and Herzegovina, while UNPROFOR and the international community at large seemed powerless to prevent such atrocities.

63. At the extraordinary session of the Organization of the Islamic Conference (OIC) held at Istanbul in June, Indonesia had joined in supporting a comprehensive resolution on the issue. It would also participate in the OIC Ministerial Meeting to be held in Jeddah on 1 and 2 December to address the deteriorating situation in Bosnia and Herzegovina. The Tenth Summit of the Non-aligned Movement in Jakarta in September had, furthermore, condemned the violation of the human rights of the people of Bosnia and Herzegovina and had called for the immediate cessation of hostilities, while reaffirming the inadmissibility of aggression and of the acquisition of territory by force. The Movement had condemned the policy of ethnic cleansing by Serbs in Bosnia and Herzegovina, had called for respect for human dignity and had demanded the immediate release of all prisoners and the dismantling of camps, prisons and other places of detention.

64. While serious concern had been expressed by the international community in various forums, the situation continued to worsen and renewed efforts were

clearly required to bring the tragedy to a speedy end. The challenge now was to find ways and means of achieving that goal that were both principled and decisive. There was an urgent need for concerted international action, not only to alleviate the suffering of the people but also to prevent the disappearance of a community and, indeed, the dismemberment of a nation. The first steps to be taken should be in favour of the displaced persons, with a view to ensuring their fundamental right to survive. In that regard, he wished to reiterate the appeal of the Non-Aligned Movement that all States should take the necessary measures, in coordination with the United Nations, to facilitate the speedy delivery of humanitarian assistance to Sarajevo and elsewhere in Bosnia and Herzegovina and the safe evacuation of women and children as well as the elderly and disabled from the combat zones. For those measures to be effective, safe passage for the flows of assistance must be guaranteed and neutral zones established, as recommended by the Special Rapporteur, under the supervision and protection of United Nations forces. While fully understanding the difficulties of neighbouring countries, his delegation joined the Special Rapporteur in appealing to them to offer at least temporary refuge to the tens of thousands of people in need of protection as the winter season approached.

65. It had now been clearly recognized by the international community that the policy of ethnic cleansing, leading towards the extermination of an ethnic or religious group, was a crime against humanity. That abhorrent practice must be ended immediately and its masterminds brought to justice. At the same time, the rights of the victims, including their right to return to their homes, must be securely guaranteed.

66. In conclusion, he hoped that the Commission, at its second special session, would be successful in taking concrete and effective steps to alleviate the suffering of the Bosnian people, ensure their basic needs and protect their fundamental rights. All the parties concerned should be urged to reconcile their differences with a view to finding a durable solution to the conflict.

67. Mr. AZIKIWE (Nigeria) expressed his delegation's concern at the continued hostilities in the former Yugoslavia, where violations of human rights had inflicted untold hardship on the innocent civilian population, resulting in loss of life, destruction of homes and entire villages and large numbers of displaced persons and refugees. The situation represented a negation of the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and other instruments which stressed the need for peace, security and respect for human dignity. The warring factions must be called on to put an end to the hostilities.

68. His delegation shared the views of the Special Rapporteur that emergency action was required by the international community. It could not accept the argument that providing refuge for those whose lives were in acute danger supported the policy of ethnic cleansing. Emphasis must be given to the protection of the right to life, upon which all other rights depended. Prompt and adequate assistance should be provided to UNHCR and ICRC in their efforts to find safe havens for the disoriented and helpless victims of the war. The current situation in some countries where foreigners, including

refugees, were the subject of attacks was of serious concern to his delegation. It hoped that the international community would act promptly through preventive diplomacy to put an end to that ugly development.

69. Security zones should be established for the displaced persons who might not have to seek refuge abroad. Those zones should be managed and protected by the United Nations, with which all the parties involved in the conflict must cooperate fully. The safety of all civilians in those zones should be ensured through the deployment of United Nations Protection Forces. Regrettably, many displaced persons had been turned away at the borders, even after crossing danger zones. While his delegation commended the humanitarian activities of UNPROFOR, the impression should not be created that it was violating the principle of non-refoulement.

70. Efforts should also be made to increase relief assistance to all persons in the affected areas, and support given to UNHCR and ICRC to ensure that such assistance reached all war victims. The opening of safe relief corridors to besieged areas was of the utmost importance and his delegation regretted the incessant blockade of those routes by the warring factions.

71. His delegation wished to commend the United Nations for its peace-keeping and relief activities and to pay a tribute to the work of UNHCR, ICRC and other humanitarian organizations. It very much regretted the reported attack on international relief workers and requested the world body to find a solution to it. He also noted with satisfaction the untiring efforts of the donor countries in providing food and medical supplies.

72. The international community, at the present juncture, should not forget the hostilities raging in other parts of the world, especially in Liberia and Somalia, where more than 3 million people had been dehumanized, malnourished and rendered homeless. Indeed, more than 1 million were already dead. The international community was, however, to be thanked for the efforts already made in recognizing the magnitude of the problems in those two African countries.

73. In conclusion, his delegation expressed the hope that the special session would assure a lasting solution to the problems in the former Yugoslavia.

74. Mr. NASSERI (Islamic Republic of Iran) endorsed the decision to convene a special session of the Commission on Human Rights. He regretted the horrendous crimes being committed in Bosnia and Herzegovina, which were a repetition of those perpetrated under fascism and nazism. Ethnic cleansing and genocide had not been consigned to the history books but were being carried out in the former Yugoslavia. It was legitimate to compare the crimes being witnessed with those committed in recent times under apartheid and by the occupiers of Palestine. If Israel could drive out an entire Muslim nation from its land and its country using brute force and violence, and at the same time win international recognition, having accomplished the task, then why should the situation in terms of Serbian aggression against the Muslim nation of Bosnia be any different? Israel had established itself on Palestinian territory and incurred only limited sanctions and condemnation of human rights violations as a result, which was worrying in view of the analagous situation in Bosnia and Herzegovina. In the same way, despite international

condemnation and sanctions, the Serbs had received no real signals which would deter them. An international coalition had not been formed against them and the new independent States had not been recognized at first. The fact was that Bosnia and Herzegovina was not Kuwait, and no immediate or strategic interests in the shape of oil were at stake. Furthermore, it had been suggested that the tragic situation could only be remedied through negotiation and that henceforth any action that might jeopardize negotiations had to be avoided. That had resulted in the absurd situation where the Security Council was reluctant even to call a formal meeting on the issue, and had recently done so only because of the pressure which had been exerted by Islamic countries. In such circumstances, there was no earthly reason why the Serbs should call a halt to their aggression. They enjoyed military supremacy since they had access to a rich supply of weapons whilst their victims, thanks to the arms embargo, were unable to procure even token military assistance. They paid lip service to the process of negotiation, using it as a convenient shield against any forceful international action, and at the same time were advancing their position on the ground, seeking to extend their control and authority. Although their gains might not be recognized as the status quo, they would provide them with maximum bargaining power at the negotiating table. Unfortunately, it was impossible to return to the territorial and geographical situation as it had stood before aggression had begun, which indicated that such measures would eventually pay dividends for the Serbs.

75. The Islamic world was sceptical as to whether a Muslim State would be welcomed in the heart of Europe. Was it not the intention to manage things in such a way as to ensure that ultimately not only the Serbian culprits but also the Muslim victims should be controlled through careful design and balance? Surely it was not merely a coincidence that no Islamic country or organization, except for the Islamic Conference of Foreign Ministers, had been invited to observe the negotiations at Geneva, whereas most Western countries received a flow of invitations.

76. The Security Council continued to ignore and deny the right of the Bosnian victims to self-defence as provided for under Article 51 of the Charter of the United Nations, and their right to receive assistance to halt aggression, avert subjugation and avoid suppression. At the same time, violation of their human rights continued. The carnage would not end until all parties and bodies concerned, in particular the Security Council, faced up to and shouldered their responsibilities. International public opinion had already recognized that Serbian crimes amounted to genocide, and the Commission should therefore follow suit, for responsibility for the situation lay solely with the Bosnian Serbs and the Republic of Serbia. It was wrong to divide responsibility and blame on the basis of exceptional acts of desperation.

77. A procedure should be established to bring persons guilty of war crimes to justice. Similarly, urgent action was needed to gain access to the besieged cities and towns where Muslim populations were falling prey to the cruelty of the Serbs with no hope of outside help. Immediate action had to be taken to save Muslims, Albanians, Croats, Hungarians and members of other ethnic minorities in Kosovo, Sandzak and Vojvodina who were in danger of being dragged into the violence and bloodshed. In addition, the mandate of UNPROFOR should be expanded to include prevention of the serious human rights

violations which characterized ethnic cleansing. Furthermore, all States should be encouraged to open their doors to refugees. Stringent screening procedures meant that the fate of thousands of displaced persons and refugees hung in the balance. If the Islamic Republic of Iran had given shelter to millions of refugees in the space of a few weeks, in addition to the millions it had already admitted, the European countries could surely afford to do the same. Bosnian Muslims were suffering and it was up to the international community to accept its share of responsibility and take the strong action which was the only way to ensure the safety of Bosnian Muslims and save them from extinction.

78. Mr. van WULFFTEN PALTHE (Netherlands) said that the events in the former Yugoslavia were almost beyond comprehension. There were continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia, especially in Bosnia and Herzegovina, including the mass forcible expulsion and deportation of civilians, deliberate attacks on non-combatants, hospitals and ambulances and the abuse of civilians in detention centres. Despite numerous written and undersigned agreements to end the hostilities, the situation had not improved. According to Mr. Mazowiecki, ethnic cleansing was the direct cause of the vast majority of human rights violations in Bosnia and Herzegovina.

79. The events in Bosnia and Herzegovina were leading to a situation in which not even minimum guarantees for the safety of displaced persons could be provided. The establishment of "safe havens" seemed inevitable. Security Council resolution 787 (1992) called for a study of the requirements for safe areas for humanitarian purposes. The only alternative to the creation of safe havens, short of an immediate end to hostilities, seemed to be to grant temporary refuge to all displaced persons and refugees outside the area. However, offers of temporary refuge by the international community had not been forthcoming, and therefore that did not look like a promising alternative. It had been argued that the establishment of safe havens amounted to support to the practice of ethnic cleansing, the same argument also being used with regard to the provision of temporary refuge outside the area. However, the corollary of that was to leave the Muslims of Bosnia where they were, which was an unacceptable response. It was essential that adequate food and medical supplies should reach persons in need in the former Yugoslavia. Given the continued difficulties created by Serbian obstruction, the only alternative was to create humanitarian corridors through which food, medical supplies and medical care could be routed unhindered.

80. With regard to Mr. Mazowiecki's report of 17 November 1992 (A/47/666-S/24809), he supported the statement in paragraph 142 that "Prompt establishment of security zones within Bosnia and Herzegovina is indispensable", along with the reference in paragraph 145 to the need for "the immediate opening of humanitarian relief corridors". He also welcomed the statement in paragraph 140 that "the Special Rapporteur intends to provide all pertinent information in his possession to the Commission of Experts established pursuant to Security Council resolution 780 (1992)". Such cooperation was an important contribution towards helping the Commission carry out its task.

81. Detention centres, which had been set up throughout the former Yugoslavia, needed to be brought to the attention not only of the Special Rapporteur, but also of the Commission of Experts, along with the names of those who had established such centres and reports on the horrors which were taking place there. Such individuals were committing grave breaches of the Geneva Conventions and other instruments of international humanitarian law, and of human rights. Such actions needed to be met by appropriate exposure, prosecution and subsequent punishment. The work undertaken by the Special Rapporteur and the Commission of Experts was merely the first step in that direction.

82. Mr. FILIJOVIC (Observer for Bosnia and Herzegovina) commended the reports on war crimes prepared by the United States, the involvement of the United States Government in the complex issue of human rights violations in Bosnia and Herzegovina, and the actions of all other Governments which were making a positive effort to end the nightmare there. The Serbs' "strategy of death", as Mr. Jacques Delors had put it, had to be officially defined as such and political and juridical steps taken to terminate it.

83. There had been no let-up in the aggression in Bosnia and Herzegovina, and in fact attacks were being made on additional towns, including Gradacac and Travnik. The no-fly zone was being violated, ethnic cleansing was continuing and thousands of refugees were fleeing the area. As of 23 November 1992, 128,000 persons had been killed, 61,000 had gone missing and there had been over 1 million displaced persons and refugees. Many people were suffering from hunger and exposure, as temperatures dropped. Six hundred and twenty-seven mosques and 120 Catholic churches had been destroyed, along with cultural institutions including libraries.

84. Although he was not fully satisfied with the draft resolution that had been submitted to the Commission, in view of the shortage of time and the need to reach consensus he was willing to accept it, if certain amendments were made. Firstly, it was necessary to emphasize that it was not only religious objects that were being destroyed but in fact all traces of Muslim and Croat culture such as institutes and archives, with the clear intention of eliminating Muslims and Croats from their own country. Also, a new preambular paragraph was needed which highlighted the concern felt over the deteriorating humanitarian situation, particularly in Bosnia and Herzegovina, as a result of prolonged sieges of towns, the exhaustion of the civilian population, attacks on humanitarian convoys and the use of women and children to prevent such humanitarian supplies from reaching besieged towns and villages, all of which practices violated the basic right to life.

85. The evidence which had been brought to the attention of the Commission showed that it was witnessing the most serious example of war crimes in history, given that the victims were mostly civilians and the fact that the crimes had taken place in such a short period of time and in such a small area. Those crimes needed to be defined and condemned. The task before the Commission was to bring the criminals to justice and to urge the countries of the world to take immediate action to stop aggression, genocide and massive violations of human rights.

The meeting rose at 1.05 p.m.